

**JBG/ELM STREET OFFICE, LLC
ELM STREET RESIDENTIAL, LLC
PROFFER STATEMENT
RZ/FDP 2012-DR-019**

**December 9, 2013
Revised June 23, 2014**

Pursuant to Section 15.2-2303 (A) of the Code of Virginia (1950, as amended) and Sect. 18-204 of the Zoning Ordinance of Fairfax County (1978, as amended) (the "Zoning Ordinance"), the property owner and applicant, for themselves and their successors and assigns (collectively referred to as the "Applicant"), in this rezoning application proffer that the development of the parcel under consideration and shown on the Fairfax County Tax Map as 30-2 ((1)) 61 (the "Property") shall be in accordance with the following conditions ("Proffers") if, and only if, RZ/FDP 2012-DR-019 (the "Application") is granted. In the event that this Application is denied, these Proffers shall be immediately null and void and of no further force or effect and the proffers approved with RZ 78-C-108 shall remain in full force and effect.

GENERAL

1. Conceptual Development Plan/Final Development Plan. The Property shall be developed in substantial conformance with the Conceptual Development Plan/Final Development Plan ("CDP/FDP") dated October 24, 2012, and revised through June 1, 2014, prepared by Bowman Consulting Group, Ltd., and consisting of 31 sheets, as further described below.

2. CDP Elements. Notwithstanding that the Conceptual Development Plan and the Final Development Plan are presented on the same sheets and defined as the CDP/FDP in Proffer 1, it shall be understood that the CDP consists of (i) the maximum square footage of permitted development on the Property, including the proposed mix and locations of uses as set forth on the CDP/FDP and as qualified under Proffer 5; (ii) the minimum proposed open space, which may be reduced as necessary to implement the inter-parcel access connections under Proffer 20 as shown on Sheet 5 of the CDP/FDP and the Ashby Vehicular Connection (as defined in Proffer 21) as shown on Sheets 15 and 16 of the CDP/FDP; (iii) the general location and arrangement, minimum setbacks, and maximum building heights of the buildings on the Property as shown on the CDP/FDP; and (iv) the points of access to the Property and accompanying pedestrian and vehicular circulation routes through the Property, as may be modified to implement the inter-parcel access connections under Proffer 20 as shown on Sheet 5 of the CDP/FDP and the Ashby Vehicular Connection as shown on Sheets 15 and 16 of the CDP/FDP (collectively, the "CDP Elements"). The Applicant reserves the right to request approval from the Planning Commission of a Final Development Plan Amendment ("FDPA") pursuant to Section 16-402 of the Zoning Ordinance for elements other than the CDP Elements for all or a portion of the Property and the CDP/FDP, provided such FDPA is in substantial conformance with these Proffers.

3. Minor Modifications. Minor modifications to the CDP/FDP may be permitted pursuant to Section 16-403(4) of the Zoning Ordinance when necessitated by sound engineering or when necessary as part of final site engineering. Such modifications may be permitted, provided: (a) the maximum building heights for each building are not increased beyond the heights identified

on Sheet 5 of the CDP/FDP and Proffer 8; (b) the minimum setbacks for each building are not decreased beyond the setbacks identified in Sheet 5 of the CDP/FDP; (c) the amount of open space identified on Sheet 16 of the CDP/FDP is not reduced, except as necessary to implement the inter-parcel access connections under Proffer 20 as shown on Sheet 5 of the CDP/FDP and the Ashby Vehicular Connection as shown on Sheets 15 and 16 of the CDP/FDP; and (d) the development otherwise is in substantial conformance with these Proffers and the CDP/FDP.

4. Future Applications. Any portion of the Property may be the subject of a Conceptual Development Plan Amendment ("CDPA"), FDPA, Proffered Condition Amendment ("PCA"), Rezoning, Special Exception ("SE"), Comprehensive Sign Plan, Special Permit ("SP"), Variance or other zoning action without the joinder and/or consent of the owner(s) of the other land area(s), provided that such application complies with Par. 6 of Sect. 18-204 of the Zoning Ordinance and Section 15.2-2302 of the Code of Virginia, as applicable. Previously approved proffered conditions or development conditions applicable to a particular portion of the Property that are not the subject of such an application shall remain in full force and effect.

PROPOSED DEVELOPMENT

5. Proposed Development. The development proposed with this Application shall include: (a) a multi-family residential building containing up to 240 multi-family dwelling units (the "Residential Units") and up to 5,033 square feet of non-office secondary uses ("Residential Building Secondary Uses") as permitted under Section 6-403 of the Zoning Ordinance (collectively, the "Residential Building Uses") in accordance with the tabulations set forth on Sheet 2 of the CDP/FDP, provided that the Residential Building Uses shall not exceed a total of 263,806 square feet of gross floor area; and (b) the existing office building on the Property containing up to 109,600 square feet of office uses ("Office Uses") and up to 7,010 square feet of non-office secondary uses ("Office Building Secondary Uses") as permitted under Section 6-403 of the Zoning Ordinance (collectively, the "Office Building Uses") in accordance with the tabulations set forth on Sheet 2 of the CDP/FDP, provided that the Office Building Uses shall not exceed a total of 112,358 square feet of gross floor area. Collectively, the Residential Building Uses and the Office Building Uses shall constitute the "Proposed Development."

6. Office Building Secondary Uses. The Office Building Secondary Uses may include the following secondary uses as permitted under Section 6-403 of the Zoning Ordinance: (a) retail sales establishments, (b) business service and supply service establishments, (c) personal service establishments, (d) financial institutions, (e) automated teller machines, (f) eating establishments, (g) fast food restaurants, (h) quick service food stores, (i) health clubs, and (j) accessory uses as permitted by Article 10 of the Zoning Ordinance. Any secondary uses in the preceding sentence identified as a Group or Category use under Section 6-403 of the Zoning Ordinance shall be permitted without the need for a separate SP, SE, CDPA, FDPA, or PCA. All other secondary uses identified as a Group or Category use under Section 6-403 of the Zoning Ordinance may be permitted through a separate SP or SE without the need for a CDPA, FDPA, or PCA, provided the use is in general conformance with the approved CDP/FDP.

7. Residential Building Secondary Uses. The Residential Building Secondary Uses shall include one or more eating establishments(s) and/or retail sales establishment(s), and shall be

located on the ground floor of the residential building in the area designated as "Retail" on Parking Level 1 shown on Sheet 10 of the CDP/FDP.

8. Building Height. The building heights for the Proposed Development shall not exceed the maximum building heights shown on Sheet 5 of the CDP/FDP. Building height shall be measured in accordance with the provisions of the Zoning Ordinance and shall be exclusive of those structures that are excluded from the maximum building height regulations as set forth in Section 2-506 of the Zoning Ordinance. Notwithstanding the foregoing, however, nothing shall preclude the Applicant from constructing the Proposed Development to a lesser building height than that which is represented on the CDP/FDP, provided the configuration of the building footprints remain in substantial conformance with that shown on the CDP/FDP.

9. Declarations and Owners' Associations.

- A. Umbrella Owners' Association. At any time, the Applicant may record a declaration and/or establish an Umbrella Owners' Association (the "UOA") for the Property to address the general maintenance and other obligations (including stormwater management and transportation demand management) of the owner(s) (and their successors and assigns), including the fulfillment of these Proffers. If recorded or established, the declaration and/or UOA documents shall separately identify those maintenance or proffer obligations that will or are expected to fall principally on owners or residents of the residential building and such obligations shall be disclosed to the owners/residents in accordance with the terms of this proffer.
- B. Homeowner and Condominium Owners' Association. In the event any of the Residential Units are held for sale, the Applicant shall cause either a homeowners association and/or a condominium owners association ("HOA/COA") to be formed for the Residential Building Uses. If a declaration is recorded and/or a UOA is established for the Property, the HOA/COA shall be a member of the declaration and/or UOA.
- C. Commercial Association(s). The Applicant may cause a Commercial Association ("CA") to be formed for the Office Building Uses. In the event the Residential Units are leased as a rental residential building without units held for sale, the Applicant may cause a CA to be formed for the Residential Building Uses. If a declaration is recorded and/or a UOA is established for the Property, each CA shall be a member of the declaration and/or UOA.
- D. Disclosures. The declaration establishing any HOA/COA/CA on the Property (including budgets provided in any offering or sale materials) shall specify the proffer and maintenance conditions and obligations set forth in these Proffers. Purchasers shall be advised in writing of these proffer conditions and obligations prior to entering into a contract of sale.
- E. UOA Transportation Demand Management ("TDM") Obligations. All residents, tenants, owners, employers and employees living, working, operating a business

or owning property within the Property shall be advised of the TDM obligations described in Proffer 30. All HOA/COA/CA members shall be informed of any funding obligations for the TDM program prior to entering into a contract of sale, and all such obligations shall be included in the HOA/COA/CA documents.

LIGHTING

10. Lighting. All on-site outdoor and parking garage lighting provided with the Proposed Development shall comply with the Outdoor Lighting Standards of Section 14-900 of the Zoning Ordinance. All proposed parking garage and building mounted security lighting on the Property shall utilize full cut-off fixtures.

PARKING

11. Zoning Ordinance Parking Requirements. Parking shall be provided in accordance with the parking requirements of Article 11 of the Zoning Ordinance, as determined by the Department of Public Works & Environmental Services ("DPWES"), for the uses within the Proposed Development, which requirements shall include a parking reduction for non-residential uses within the McLean Commercial Revitalization District in accordance with Appendix A7-309 of the Zoning Ordinance and as shown on Sheet 2 of the CDP/FDP. The Applicant reserves the right to provide parking spaces in addition to the total number of parking spaces shown on Sheet 2 of the CDP/FDP: (a) if such additional spaces result from the final design of the parking structure to avoid partial garage floors, (b) if such additional spaces are designed to serve uses on the parcel identified on the Fairfax County Tax Map as 30-2 ((10))(6) 1 (the "Pournaras Property") under a future agreement between the Applicant and the owner of the Pournaras Property, or (c) to the extent necessary to accommodate uses established on the Property that result in a higher parking requirement than is shown on the CDP/FDP (e.g., eating establishments), provided that (i) the building heights as set forth on Sheets 2 and 5 of the CDP/FDP and in Proffer 8 are not exceeded and (ii) the building footprints for each building as shown on the CDP/FDP do not increase.

12. Future Parking Reductions. The Applicant may pursue a parking reduction for the Proposed Development, as may be permitted by Article 11 of the Zoning Ordinance and approved by the Board of Supervisors.

13. Bicycle Parking. As part of the first site plan approval for the Proposed Development, the Applicant shall designate on the site plan and install secure bicycle storage in locations convenient to the office, multi-family residential, and retail uses using the standards outlined below. For purposes of this proffer, short-term bicycle parking shall be located at a convenient location for visitors. Long-term bicycle parking shall be in a secure location such as a bicycle room, cage, locker, or other secure parking option approved by the Fairfax County Department of Transportation ("FCDOT"). Inverted U-shape bicycle racks shall count as two (2) bicycle parking spaces. The Applicant also shall provide signage within the Property to guide bicyclists to the secure bicycle storage facilities.

A. Office Bicycle Parking. The Applicant shall provide one (1) long-term bicycle parking space for every 7,500 square feet, or portion thereof, of gross floor area of

Office Uses and one (1) additional short-term bicycle parking space for each additional 20,000 square feet, or portion thereof, of gross floor area of Office Uses.

- B. Residential Bicycle Parking. The Applicant shall provide one (1) long-term bicycle parking space for every three (3) multi-family Residential Units, or portion thereof, and one (1) short-term bicycle parking space for every 50 multi-family Residential Units, or portion thereof.
- C. Retail Bicycle Parking. The Applicant shall provide two (2) short-term bicycle parking spaces for every 10,000 square feet, or portion thereof, of gross floor area of Secondary Uses and one (1) long-term bicycle parking space for every 25,000 square feet of gross floor area of Secondary Uses, or portion thereof.
- D. Consultation with FCDOT. The Applicant shall determine the final locations of the secure bicycle storage, the type of bicycle racks, and bicycle signage in consultation with FCDOT prior to site plan approval for the Proposed Development. The bicycle storage facilities designated on the site plan and the bicycle signage shall be installed prior to the issuance of the first RUP for the Residential Units.

SIGNAGE

14. Signage. Signage for the Proposed Development shall be provided in accordance with the requirements of Article 12 of the Zoning Ordinance or pursuant to a Comprehensive Sign Plan approved by the Planning Commission in accordance with Section 12-210 of the Zoning Ordinance.

LANDSCAPING

15. Landscape Plan. The Applicant shall implement the landscape design for the Proposed Development shown on Sheet 11 of the CDP/FDP (the "Conceptual Landscape Plan"), which illustrates the plantings and other features to be provided with the Proposed Development, including streetscapes, plazas and parks. The Conceptual Landscape Plan is conceptual in nature and the tree species and planting locations may be modified by the Applicant as part of final engineering and building design, provided such modifications: (a) provide a similar quality and quantity of landscaping as that shown on the Conceptual Landscape Plan, and (b) otherwise are in substantial conformance with the CDP/FDP.

- A. Native, Non-Invasive Species. The Applicant shall use principally native, non-invasive species for plantings and landscaping materials throughout the Proposed Development, provided that the Applicant reserves the right, in consultation with and approval by the Urban Forest Management Division of DPWES ("UFMD"), to modify as part of site plan approval the exact species to be used, such as where some plant materials are not available or have been deemed by UFMD to no longer be appropriate.

- B. Site Plan(s). As part of the initial site plan submission for each building within the Proposed Development, the Applicant shall submit to UFMD for review and approval a detailed landscape and tree cover plan (the "Landscape Plan") for such building(s), which shall include, among other things:
- i. Irrigation information;
 - ii. Design details for tree wells or grates and other similar planting areas above structures and along streets;
 - iii. Composition of the planting materials and/or structural soils used for street trees or where plantings are to be located within or on top of structures and other methods to be used to ensure the viability of the proposed plantings; and
 - iv. Information demonstrating that the Landscape Plans are consistent with and are part of implementation of the SWM Plan defined in Proffer 18.
- C. Planting Quality. Each Landscape Plan shall be consistent with the quality and quantity of plantings and materials shown on the Conceptual Landscape Plan, as may be modified by the Applicant as described above, and may include the use of additional shade trees and other plant materials as determined by the Applicant. The Applicant may adjust the type and location of vegetation and the design of the public spaces, courtyard areas and streetscape improvements and plantings as approved by the Zoning Evaluation Division ("ZED") of the Department of Planning & Zoning ("DPZ") and UFMD, provided such adjustments otherwise are in substantial conformance with the CDP/FDP.
- D. Planting Strips. The Applicant shall install street trees consistent with the Conceptual Landscape Plan and the streetscape plans included on Sheets 11, 12, and 13 of the CDP/FDP, subject to approval by FCDOT and the Virginia Department of Transportation ("VDOT"). Street trees planted within VDOT right-of-way along the Elm Street frontage of the Property shall not be included in tree canopy coverage calculations as noted on Sheet 11 of the CDP/FDP. For trees not planted within an 8-foot wide minimum planting area, or that do not meet the minimum planting area required by the Fairfax County Public Facilities Manual ("PFM"), the Applicant shall provide details for alternative designs showing how the proposed planting spaces will provide for normal tree growth and performance by installing structural cells or an equivalent solution acceptable to UFMD to meet the following specifications:
- i. A minimum of five (5) feet open surface width and 60 square feet open surface area for Category III and Category IV trees (as defined in Table 12.17 of the PFM), with the tree located in the center of such open area.
 - ii. A minimum rooting area of eight (8) feet in width, which may be achieved with techniques such as, but not limited to, structural cell technology, to

provide non-compacted soil below pavement/walkways, with no barrier to root growth within four (4) feet of the base of the tree.

- iii. Soil volume for Category III or IV trees (as indicated in Table 12.17 of the PFM) shall be a minimum of 700 cubic feet per tree for single trees. For two (2) trees planted in a contiguous planting area, a total soil volume of at least 1,200 cubic feet shall be provided. For three (3) or more trees planted in a contiguous area, the soil volume shall equal at least 500 cubic feet per tree. A contiguous area shall be any area that provides root access and soil conditions favorable for root growth throughout the entire area.
- iv. Soil in planting sites shall be as specified in planting notes to be included in all site plans reviewed and approved by UFMD.
- v. Planting widths of less than five (5) feet will be considered for Category II trees (as defined in Table 12.17 of the PFM).
- vi. The soil volumes noted above shall be provided regardless of the type of pedestrian zone in which the trees are proposed to be planted.

The Applicant shall provide notice to UFMD not less than 72 hours prior to the Applicant's implementation of the tree planting spaces, including the installation of any structural soils or structural cells, to permit UFMD to verify the proper installation and planting of trees in conformance with the approved site plan. If UFMD is not in attendance during the installation, the Applicant also shall provide UFMD written documentation demonstrating the materials and methods used to satisfy the requirements of the plan and verifying that the contractors performing the work are licensed as may be required by the manufacturer. Following installation and no later than final bond release for the site plan for which this proffer is applicable, the Applicant shall provide written confirmation from a Certified Arborist or Registered Consulting Arborist verifying the installation of trees by a licensed contractor consistent with the requirements of this proffer.

- E. Open Space Designs. As part of final engineering and site design, and subject to review and approval by ZED, the Applicant may elect to modify the designs of the various open space areas from the designs shown on Sheets 11, 12, 12A, 12B, 13, 13A, 13B, 13C, 13D, and 16 of the CDP/FDP, provided that such modifications offer a similar quality of design and quantity of plantings and materials as those shown on the CDP/FDP and are in accordance with Section 16-403(4) of the Zoning Ordinance.
- F. Fire Marshal Review. The Applicant has coordinated with the Fire Marshal regarding the site design and layout of the Proposed Development and the Fire Access Exhibit shown on Sheet S-1 of the CDP/FDP. Notwithstanding such coordination, however, if it is determined during site plan review that elements of the streetscape improvements, plantings, and tree preservation areas, as well as

any elements of the open space designs, conflict with subsequent comments from the Fire Marshal, the Applicant shall first make efforts to obtain the Fire Marshal's approval by making minor adjustments to such elements. If the Fire Marshal does not approve such adjustments, the Applicant shall be permitted to relocate, remove, or modify the conflicting elements of the streetscape improvements, plantings, tree preservation areas, and/or the open space designs, in consultation with, and subject to approval by, UFMD and DPZ, in accordance with Proffer 3, without the need for a PCA, CDPA, or FDPA.

16. Streetscaping. The Applicant shall provide streetscape improvements and plantings ("Streetscape") as indicated on the Conceptual Landscape Plan shown on Sheet 11 of the CDP/FDP, the Elm Street Streetscape/Open Space Plan shown on Sheets 12, 12A, and 12B of the CDP/FDP, and the Fleetwood Road Streetscape/Open Space Plan shown on Sheets 13, 13A, and 13B of the CDP/FDP, subject to approval by FCDOT and VDOT. If requested by FCDOT and/or VDOT as part of any such approval, the Applicant shall enter into a maintenance agreement with FCDOT and/or VDOT, as applicable, for the maintenance, by the Applicant, of any Streetscape elements required under this Proffer 16 that are located within VDOT right-of-way. In the event any such Streetscape elements are not approved by FCDOT and/or VDOT, as applicable, as part of the first site plan for the Proposed Development, the Applicant shall contribute \$150,000 to the Dranesville District Pedestrian Improvement Fund prior to site plan approval for the Proposed Development. Notwithstanding the foregoing the Applicant may make minor modifications to the Streetscape, including adjusting the tree species and shifting the locations of street trees, to accommodate final architectural designs, sight distance concerns and utilities, as well as to facilitate outdoor elements in the Proposed Development, provided that such changes otherwise are in substantial conformance with these Proffers and the CDP/FDP and are approved by UFMD. The Applicant shall not restrict access to the streetscape, open space, and outdoor recreation areas within the Property by owners, tenants, employees, residents, guests, visitors, patrons, and members of the general public, provided that the Applicant, or a successor UOA/HOA/COA/CA, may establish reasonable rules and regulations governing the use of the streetscape, open space, and outdoor recreation areas and may temporarily limit access for reasonable periods of time for purposes of construction and maintenance within the Property and/or as may be necessary to host programmed quasi-public events such as, but not limited to, a farmers market, art festival, food and wine festival, or other similar community-oriented event.

17. Tree Preservation. As part of site plan approval for the Proposed Development, the Applicant shall demonstrate that the Proposed Development will meet applicable Fairfax County requirements for tree preservation and the requirements of this Proffer 17.

- A. Tree Preservation. The Applicant shall submit a tree preservation plan ("Tree Preservation Plan") as part of the first and all subsequent site plan submissions for the Proposed Development. The Tree Preservation Plan shall be prepared by a professional with experience in the preparation of tree preservation plans, such as a Certified Arborist or Registered Consulting Arborist, and shall be subject to the review and approval of the Urban Forest Management Division ("UFMD"), DPWES.

The Tree Preservation Plan shall consist of a tree survey that includes the location, species, size, crown spread and condition rating percentage of all trees twelve (12) inches in diameter and greater within 25 feet in the undisturbed area and ten (10) feet of the limits of clearing and grading in the disturbed area shown on the CDP/FDP for the entire Property. The Tree Preservation Plan shall provide for the preservation of those areas shown for tree preservation, those areas outside of the limits of clearing and grading shown on the CPD/FDP, and those additional areas in which trees can be preserved as a result of final engineering. The condition analysis ratings shall be prepared using methods outlined in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture. Specific tree preservation activities that will maximize the survivability of any tree identified to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan.

- B. Tree Preservation Walk-Through. The Applicant shall retain the services of a Certified Arborist or Registered Consulting Arborist, and shall have the limits of clearing and grading marked with a continuous line of flagging prior to the walk-through meeting. During the tree-preservation walk-through meeting, the Applicant's Certified Arborist or Registered Consulting Arborist shall walk the limits of clearing and grading with a representative of UFMD to determine where adjustments to the clearing limits can be made, if any, to increase the area of tree preservation and/or to increase the survivability of trees at the edge of the limits of clearing and grading, and such adjustments shall be memorialized in writing and implemented by the Applicant. Trees that are identified as dead or dying may be removed as part of the clearing operation. Any tree that is so designated shall be removed and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associated understory vegetation. If a stump must be removed, this shall be done using a stump-grinding machine in a manner causing as little disturbance as possible to adjacent trees and associated understory vegetation and soil conditions.
- C. Limits of Clearing and Grading. The Applicant shall conform strictly to the limits of clearing and grading as shown on the CDP/FDP, subject to allowances specified in these Proffers and for the installation of utilities and/or trails as determined necessary by the Director of DPWES, as described herein. If it is determined necessary to install utilities and/or trails in areas protected by the limits of clearing and grading as shown on the CDP/FDP, they shall be located in the least disruptive manner necessary as determined by UFMD. The Applicant shall develop and implement a replanting plan, subject to approval by UFMD, for any areas protected by the limits of clearing and grading that must be disturbed for such trails or utilities. Alteration of the limits of clearing and grading due to the circumstances described above shall not require the approval of a CDPA, FDPA, or PCA.

- D. Tree Preservation Fencing. All trees shown to be preserved on the Tree Preservation Plan shall be protected by tree protection fencing. Tree protection fencing in the form of four (4) foot high, fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart, or super silt fence to the extent that required trenching for super silt fence does not sever or wound compression roots which can lead to structural failure and/or uprooting of trees, shall be erected at the limits of clearing and grading as shown on the Phase I & II erosion and sediment control sheets, as may be modified by in accordance with Proffer 17.E below.

All tree protection fencing shall be installed after the tree preservation walk-through meeting but prior to any clearing and grading activities. The installation of all tree protection fencing shall be performed under the direct supervision of a Certified Arborist, and accomplished in a manner that does not harm existing vegetation that is to be preserved. Three (3) days prior to the commencement of any clearing and grading activities, but subsequent to the installation of the tree protection devices, the Applicant shall provide UFMD notice and the opportunity to inspect the site to ensure that all tree protection devices have been correctly installed. If it is determined that the tree preservation fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by UFMD.

- E. Root Pruning. The Applicant shall root prune, as needed to comply with the tree preservation requirements of these Proffers. All treatments shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets of the submitted site plan. The details for these treatments shall be reviewed and approved by UFMD and accomplished in a manner that protects affected and adjacent vegetation to be preserved, and may include, but not be limited to, the following:

- Root pruning shall be done with a trencher or vibratory plow to a depth of 18 inches.
- Root pruning shall take place prior to any clearing and grading.
- Root pruning shall be conducted under the supervision of a Certified Arborist.
- A UFMD representative shall be informed when all root pruning and tree protection fence installation is complete.

- F. Site Monitoring. During any clearing or tree/vegetation removal on the Property, a representative of the Applicant shall be present to monitor the process and ensure that the activities are conducted in accordance with these Proffers and as approved by UFMD. The Applicant shall retain the services of a Certified Arborist or Registered Consulting Arborist to monitor construction work as it relates to tree preservation efforts in order to ensure conformance with all tree preservation proffers and UFMD approvals. The monitoring schedule shall be

described and detailed in the Tree Preservation Plan, and reviewed and approved by UFMD.

STORMWATER MANAGEMENT

18. Stormwater Management. As part of site plan approval for the Proposed Development, the Applicant shall demonstrate that the Proposed Development will meet applicable PFM requirements for stormwater quantity and stormwater quality in effect at the time of site plan approval. The site plan shall include strategies for addressing both water quantity and water quality management issues, including detailed mitigation measures to be implemented as part of construction. Stormwater detention and Best Management Practices (“BMPs”) facilities shall be provided in an appropriate system per the PFM and may include, but are not limited to, an underground detention vault or similar facility, Low Impact Development (“LID”) facilities, and infiltration trenches, all as generally set forth on the CDP/FDP. Underground stormwater detention shall be provided in conformance with the conditions of DPWES Waiver #3728-WPFM-001-1. The Applicant also may include LID techniques such as tree box filters, bio-retention areas, pervious hardscapes/streetscapes, and stormwater reuse for landscape irrigation and air conditioning unit makeup water. The specific SWM facilities shall be identified at the time of site plan approval and approved by DPWES. The Applicant shall construct stormwater quantity and quality measures in accordance with the site plan (and each subsequent revision thereto) such that the stormwater management goals outlined below shall be achieved.

- A. Stormwater Management Goals. Using a series of infiltration facilities and/or structural and non-structural stormwater management and/or Best Management Practices (“BMP”) facilities, the Applicant shall demonstrate the Proposed Development’s conformance with applicable PFM requirements for stormwater quantity and stormwater quality in effect at the time of site plan approval for the Proposed Development. In addition, the Applicant shall design the stormwater management and BMP facilities to control the total volume of runoff and peak hour volume of runoff during the two (2) year, 24 hour storm and to control stormwater runoff such that the total phosphorous load for the Property within the Proposed Development is no greater than for development of prior developed land, whereby the total phosphorus load shall be reduced at least twenty percent (20%) below the predevelopment total phosphorus load, as specified under the Fairfax County Stormwater Management Ordinance.
- B. Maintenance Responsibility. Prior to site plan approval for the Proposed Development, the Applicant shall execute an agreement with the County in a form satisfactory to the County Attorney (the “SWM Agreement”) providing for the perpetual maintenance of all stormwater management facilities that are part of the Proposed Development (“SWM Facilities”). The SWM Agreement shall require the Applicant (or its successors) to perform regular routine maintenance of the SWM Facilities in accordance with the maintenance specifications provided on the approved site plan, and to provide a maintenance report annually to the Fairfax County Maintenance and Stormwater Management Division of DPWES, provided DPWES requests such a maintenance report. The SWM Agreement also shall address easements for County inspection and emergency maintenance of the

SWM Facilities to ensure that the facilities are maintained by the Applicant in good working order.

- C. Future Regulations. In the event the U.S. Environmental Protection Agency, the Commonwealth of Virginia, Fairfax County, or their designee, issue new or additional stormwater management regulations affecting the Proposed Development, the Applicant shall have the right to accommodate necessary changes to its stormwater management designs without the need for a CDPA, FDPA, or PCA, provided such stormwater management changes do not materially affect the limits of clearing and grading, building locations, or road layouts and otherwise are in general conformance with the CDP/FDP.

TRANSPORTATION IMPROVEMENTS

19. Beverly Road/Elm Street Intersection Improvements. Subject to VDOT approval, the Applicant shall implement the lane striping and appropriate signage necessary to create a right turn lane and a left turn lane on eastbound Elm Street at the approach to Beverly Road as shown on Sheet S-2 of the CDP/FDP. The Applicant shall implement such lane striping and signage improvements prior to the issuance of the first RUP for the Proposed Development.

20. Future Interparcel Access Easements. The Applicant shall grant future interparcel access easements for adjacent properties as follows:

- A. Pournaras Property. The Applicant, or its successor, shall grant an interparcel access easement to the owner of the Pournaras Property in the general location identified as "Approximate Location of Future Inter-Parcel Access Esmt" as shown on Sheet 5 of the CDP/FDP within ninety (90) days of a request by the owner of the Pournaras Property, provided the owner of the Pournaras Property closes the existing access to Elm Street to provide access via the internal private roadway on the Property. Notwithstanding the general location of the interparcel access easement identified on Sheet 5 of the CDP/FDP, the final location of such easement may be adjusted as mutually agreed upon by the Applicant, FCDOT, and the owner of the Pournaras Property.
- B. McLean Office Square Condominium and/or Elm Square Office Condominium. The Applicant, or its successor, shall grant an interparcel access easement to the parcel identified on the Fairfax County Tax Map as 30-2 ((35)) 1 – 23 (the "McLean Office Square Property") and/or the parcel identified on the Fairfax County Tax Map as 30-2 ((38)) 1 – 3 (the "Elm Square Office Property") in the general location identified as "Approximate Location of Future Inter-Parcel Access Esmt" as shown on Sheet 5 of the CDP/FDP within ninety (90) days of a request by the ownership of the McLean Office Square Property and/or the Elm Square Office Property, provided the ownership of the McLean Office Square Property and/or the Elm Square Office Property, as applicable, creates an interparcel access connection between the Property and the McLean Office Square Property and/or the Elm Square Office Property and grants an interparcel access easement to the Property for the use of such interparcel access connection.

Notwithstanding the general location of the interparcel access easement identified on Sheet 5 of the CDP/FDP, the final location of such easement may be adjusted as mutually agreed upon by the Applicant, FCDOT, and the ownership of the McLean Office Square Property and/or the Elm Square Office Property, as applicable.

21. Future Pedestrian and Vehicular Connection to the Ashby Property. The Applicant, or its successor, shall implement the alternative pedestrian and vehicular connection between the Property and the parcel identified on the Fairfax County Tax Map as 30-2 ((1)) 30B (the "Ashby Property") shown as the "Potential Road Extension Exhibit" on Sheet 15 of the CDP/FDP (the "Ashby Vehicular Connection"), provided the County approves a rezoning application requiring the owner of the Ashby Property to: (a) accommodate such a pedestrian and vehicular connection extending from the Property to the Ashby Property, (b) provide a pedestrian and vehicular connection on the Ashby Property between Fleetwood Road and Beverly Road that also connects to the Applicant's pedestrian and vehicular connection at the boundary of the Ashby Property, and (c) grant any easement necessary for the owner, tenants, employees, residents, guests, visitors, and patrons on the Property to use such pedestrian and vehicular connection on the Ashby Property. The Applicant shall determine the final location, design, and materials for such connection in consultation with DPWES, DPZ, and FCDOT. The Applicant, or its successor, shall implement the Ashby Vehicular Connection, or enter into an agreement with the owner of the Ashby Property or a third party to implement such connection, within one (1) year of the County's approval of a rezoning application requiring the owner of the Ashby Property to accommodate such a connection as described in this Proffer 21. In the event the County approves such a rezoning application after the first site plan approval for the Proposed Development, the Applicant's obligation to implement the Ashby Vehicular Connection, or enter into an agreement with the owner of the Ashby Property or a third party to implement such connection, shall be subject to the provision of funding for such connection by others.

22. Elm Street Bus Stop/Shelter. Subject to approval by FCDOT of a Fairfax County bus route that serves the Property, the Applicant shall accommodate one (1) bus stop along the Elm Street frontage of the Property that includes a bus shelter to be provided by the Applicant in the general location shown as "Approximate Location of Potential Elm Street Bus Stop/Shelter" on Sheet 15 of the CDP/FDP. FCDOT shall determine the final location of the bus stop/shelter based on the optimum location for such facility and in consultation with the Applicant prior to the first site plan approval for the Proposed Development. Any adjustments to the location of the bus stop/shelter made by the Applicant in consultation with FCDOT shall not require approval of a PCA, CDPA, or FDPA. The Applicant shall construct the bus shelter with a roof, three sides, and benches, and in accordance with the McLean Central Business Center Open Space Design Standards adopted by the Fairfax County Board of Supervisors on May 5, 2008 (the "CBC Design Standards"), prior to the issuance of the first RUP for the Proposed Development. The bus shelter shall not contain any commercial advertising, provided that such prohibition shall not apply to the posting of transportation-related information by FCDOT.

23. Fleetwood Road Bus Stop/Shelter. Subject to approval by FCDOT of a Fairfax County bus route that serves the Property, the Applicant, in consultation with and as requested by FCDOT, shall either: (a) contribute \$22,000 to the County, prior to the issuance of the first RUP

for the Proposed Development, for an off-site bus shelter to be provided by others along Fleetwood Road in the vicinity of the Property, or (b) accommodate one (1) bus stop along the Fleetwood Road frontage of the Property that includes a bus shelter to be provided by the Applicant in the general location shown as "Approximate Location of Potential Fleetwood Road Bus Stop/Shelter" on Sheet 15 of the CDP/FDP. In the event FCDOT requests that the Applicant accommodate the bus stop/shelter on the Property rather than making a contribution for an off-site bus stop/shelter, FCDOT shall determine the final location of the on-site bus stop/shelter based on the optimum location for such facility and in consultation with the Applicant prior to the first site plan approval for the Proposed Development. Any adjustments to the location of the on-site bus stop/shelter made by the Applicant in consultation with FCDOT shall not require approval of a PCA, CDPA, or FDPA. The Applicant shall construct such on-site bus shelter with a roof, three sides, and benches, and in accordance with the CBC Design Standards, prior to the issuance of the first RUP for the Proposed Development. The on-site bus shelter shall not contain any commercial advertising, provided that such prohibition shall not apply to the posting of transportation-related information by FCDOT.

24. JBG/Ashby Trail Segment. Subject to any applicable approval(s) by Fairfax County and the approval of, and the granting of any necessary off-site easements by, the owner of the Ashby Property, the Applicant shall install an asphalt, multi-use trail with a minimum width of eight (8) feet, and lighting along the trail, in accordance with Exhibit A, across the Property and a portion of the Ashby Property as shown on Sheets 5 and 11 of the CDP/FDP prior to the issuance of the first RUP for the Proposed Development. In the event Fairfax County does not grant any required approval(s) for, or owner of the Ashby Property does not approve of, or grant the necessary off-site easements for, such trail prior to the first site plan approval for the Proposed Development, the Applicant shall contribute \$27,700 to the Dranesville District Pedestrian Improvement Fund prior to the issuance of the first RUP for the Proposed Development in lieu of such trail installation.

25. McLean Office Square Trail Segment. Subject to any applicable approval(s) by Fairfax County and the approval of, and the granting of any necessary off-site easements by, the ownership of the McLean Office Square Property, the Applicant shall install an asphalt, multi-use trail with a minimum width of eight (8) feet, which may be reduced to a minimum width of six (6) feet if a width of eight (8) feet is not feasible, and lighting along the trail, in accordance with Exhibit A, across the McLean Office Square Property as shown on Sheet S-3 of the CDP/FDP prior to the issuance of the first RUP for the Proposed Development. In the event Fairfax County does not grant any required approval(s) for, or the ownership of the McLean Office Square Property does not approve of, or grant the necessary off-site easements for, such trail prior to the first site plan approval for the Proposed Development, the Applicant shall contribute \$70,800 to the Dranesville District Pedestrian Improvement Fund prior to the issuance of the first RUP for the Proposed Development in lieu of such trail installation.

26. Road Runner Trail Segment. Subject to any applicable approval(s) by Fairfax County, and the approval of, and the granting of any necessary off-site easements by, the owner of the property identified as Fairfax County Tax Map 30-2 ((1)) 27A (the "Road Runner Property"), the Applicant shall install an asphalt, multi-use trail with a minimum width of eight (8) feet, which may be reduced to a minimum width of six (6) feet if a width of eight (8) feet is not feasible, and

lighting along the trail, in accordance with Exhibit A, across the Road Runner Property as shown on Sheet S-3 of the CDP/FDP prior to the issuance of the first RUP for the Proposed Development. In the event Fairfax County does not grant any required approval(s) for, or the owner of the Road Runner Property does not approve of, or grant the necessary off-site easements for, such trail prior to the first site plan approval for the Proposed Development, the Applicant shall contribute \$79,700 to the Dranesville District Pedestrian Improvement Fund prior to the issuance of the first RUP for the Proposed Development in lieu of such trail installation.

27. McLean House Sidewalk/Streetscape Improvements. Subject to any applicable approval(s) by Fairfax County and VDOT, and also subject to: (a) the approval of, (b) the granting of any necessary off-site easements by, and (3) the entering into of any necessary maintenance agreement with FCDOT and/or VDOT, as applicable, by the ownership of the property identified on the Fairfax County Tax Map as 30-2 ((26)) 100 – 1223 (the “McLean House Property”), the Applicant shall construct and install sidewalk/streetscape improvements in accordance with the McLean CBC Design Standards, as shown on Exhibit B, across the McLean House Property and/or in VDOT right-of-way as shown on Sheet S-3 of the CDP/FDP prior to the issuance of the 100th RUP for the Proposed Development. In the event Fairfax County or VDOT does not grant any required approval(s) for, or the ownership of the McLean House Property does not approve of, grant the necessary off-site easements for, or enter into any necessary maintenance agreement with FCDOT and/or VDOT, as applicable, for, such sidewalk/streetscape improvements prior to the first site plan approval for the Proposed Development, the Applicant shall contribute \$199,400 to the Dranesville District Pedestrian Improvement Fund prior to the issuance of the 100th RUP for the Proposed Development in lieu of such sidewalk/streetscape construction and installation.

28. Ashby Sidewalk/Streetscape Improvements. Subject to any applicable approval(s) by Fairfax County and VDOT, and also subject to: (a) the approval of, (b) the granting of any necessary off-site easements by, and (c) the entering into of any necessary maintenance agreement with FCDOT and/or VDOT, as applicable, by the owner of the Ashby Property, the Applicant shall construct and install sidewalk/streetscape improvements in accordance with the McLean CBC Design Standards, as shown on Exhibit B, across the Ashby Property and/or in VDOT right-of-way as shown on Sheet S-3 of the CDP/FDP prior to the issuance of the 100th RUP for the Proposed Development. In the event Fairfax County or VDOT does not grant any required approval(s) for, or the owner of the Ashby Property does not approve of, grant the necessary off-site easements for, or enter into any necessary maintenance agreement with FCDOT and/or VDOT, as applicable, for, such sidewalk/streetscape improvements prior to the first site plan approval for the Proposed Development, the Applicant shall contribute \$85,600 to the Dranesville District Pedestrian Improvement Fund prior to the issuance of the 100th RUP for the Proposed Development in lieu of such sidewalk/streetscape construction and installation.

29. Pournaras Sidewalk/Streetscape Improvements. Subject to any applicable approval(s) by Fairfax County and VDOT, and also subject to: (a) the approval of, (b) the granting of any necessary off-site easements by, and (c) the entering into of any necessary maintenance agreement with FCDOT and/or VDOT, as applicable, by the owner of the Pournaras Property, the Applicant shall construct and install sidewalk/streetscape improvements in accordance with

the McLean CBC Design Standards, as shown on Exhibit B, across the Pournaras Property and/or in VDOT right-of-way as shown on Sheet S-3 of the CDP/FDP prior to the issuance of the 100th RUP for the Proposed Development. In the event Fairfax County or VDOT does not grant any required approval(s) for, or the owner of the Pournaras Property does not approve of, grant the necessary off-site easements for, or enter into any necessary maintenance agreement with FCDOT and/or VDOT, as applicable, for, such sidewalk/streetscape improvements prior to the first site plan approval for the Proposed Development, the Applicant shall contribute \$57,400 to the Dranesville District Pedestrian Improvement Fund prior to the issuance of the 100th RUP for the Proposed Development in lieu of such sidewalk/streetscape construction and installation.

TRANSPORTATION DEMAND MANAGEMENT

30. Transportation Demand Management. This Proffer sets forth the programmatic elements of a transportation demand management program that shall be implemented by the Applicant, and subsequently, as appropriate, the property owner, Property Owners Association (“POA”) or Condominium Owners Association (“COA”), to encourage the use of transit (Metrorail and bus), other high-occupant vehicle commuting modes, walking, biking and teleworking, all in order to reduce automobile trips generated by the residential and office uses constructed on the Property.

- A. Definitions. For purposes of this Proffer, “Stabilization” shall be deemed to occur one (1) year following issuance of the last initial RUP for the final new residential building to be constructed on the Property. “Pre-stabilization” shall be deemed to occur any time prior to Stabilization.
- B. Transportation Demand Management Plan. The proffered elements of the TDM Program as set forth below will be more fully described in a Transportation Demand Management Work Plan, (the “TDM Work Plan”) to be filed at the time a building permit (excluding just a core/shell permit only) is issued. It is the intent of this Proffer 30 that the TDM Work Plan will adapt over time to respond to the changing transportation related circumstances of the Property, the surrounding community and the region, as well as to technological and/or other improvements, all with the objective of meeting the trip reduction goals for the Residential Units as set forth in these Proffers. Accordingly, modifications, revisions, and supplements to the TDM Work Plan as coordinated with FCDOT can be made without the need for a PCA provided that the TDM Work Plan continues to reflect the proffered elements of the TDM Program as set forth below.
- C. Trip Reduction Goals. The objective of the TDM Work Plan shall be to reduce the number of weekday peak hour vehicle trips generated by the Residential Units located within the Property through the use of mass transit, ridesharing and other strategies including but not limited to those outlined in the TDM Strategic Plan. In addition, the implementation of enhanced pedestrian and bicycle connections/facilities will provide safe and convenient access to nearby Metrorail and bus facilities, thereby encouraging commuting options other than the automobile to residents, employees, and visitors to the Property.

- (i) Baseline. The baseline number of weekday peak hour residential vehicle trips for the Residential Units within the Property against which the TDM Goals (as defined in subparagraph C.ii) will be measured shall be derived upon the number of Residential Units site plan approved, constructed and occupied on the Property as part of the Proposed Development at the time traffic counts are conducted in accordance with subparagraph H.1. or as qualified below and using the trip generation rates/equations applicable to such Residential Units as set forth in the Institute of Transportation Engineers, Trip Generation, 9th Edition for Land Use Code = 220. If at the completion of development of the Property under this Application ("Build Out"), the Applicant has constructed fewer than 240 Residential Units as part of the Proposed Development, then the Baseline Trip generation numbers applicable upon Build Out shall be calculated as if 240 Residential Units had actually been constructed as reflected in the Traffic Impact Study for the Elm Street Residential, LLC prepared by Wells+Associates, INC dated March 26, 2013.
- (ii) TDM Goal. The TDM strategies shall be utilized to reduce the peak hour vehicular trips by a minimum of twenty percent (20%) for the Residential Units as measured for the PM peak hour.

D. Process of Implementation. The TDM Program shall be implemented as follows, provided that modifications, revisions, and supplements to the implementation process as set forth herein as coordinated with FCDOT can be made without requiring a PCA.

- (i) TDM Program Manager. The applicant shall appoint and continuously employ, or cause to be employed, a TDM Program Manager ("TPM") for Property/POA/COA. If not previously appointed, the TPM shall be appointed by no later than sixty (60) days after the issuance of the first building permit for the residential building to be constructed on the Property. The TPM duties may be part of other duties associated with the appointee. The TPM shall notify FCDOT in writing within 10 days of the appointment of the TPM. Thereafter the Property/POA/COA shall do the same within ten (10) days of any change in such appointment.
- (ii) Annual Report and Budget. Every calendar year, no later than February 1, the TPM shall submit an Annual Report, based on a report template provided by FCDOT, which may revise the Annual Budget in order to incorporate any new construction on the Property. Any changes to the TDM Work Plan shall be highlighted in this report.

The Annual Report and Budget shall be reviewed by FCDOT. If FCDOT has not responded with any comments within sixty (60) days after submission, then the Annual Report and Budget shall be deemed approved and the program elements shall be implemented. If FCDOT responds with comments on the Annual Report and Budget, then the TPM will meet with

FCDOT staff within fifteen (15) days of receipt of the County's comments. Thereafter, but in any event, no later than thirty (30) days after the meeting, the TPM shall submit such revisions to the program and/or budget as discussed and agreed to with FCDOT and begin implementation of the approved program and fund the approved TDM Budget.

- (iii) TDM Account. The TPM shall establish a separate interest bearing account with a bank or other financial institution qualified to do business in Virginia (the "TDM Account") within 30 days after approval of the TDM Work Plan and TDM Budget. All interest earned on the principal shall remain in the TDM Account and shall be used by the TPM for TDM purposes.
- (iv) TDM Incentive Fund. The "TDM Incentive Fund" is an account into which the residential building owner, through the TPM, shall deposit contributions to fund a multimodal incentive program for initial purchasers/lessees of the Residential Units within the Property. Such contribution shall be made one time for the residential building at the rate of \$0.01 per gross square foot of new residential uses to be constructed on the Property and provided prior to the issuance of the first RUP. In addition to providing transit incentives, such contributions may also be used for enhancing/providing multimodal facilities within and proximate to the Property.
- (v) Monitoring. The TPM shall verify that the proffered trip reduction goal for the Residential Units is being met through the completion of surveys of the residents of the Residential Units ("Person Surveys"), vehicular traffic counts of the Residential Units ("Vehicular Traffic Counts"), and/or other such methods as may be reviewed and approved by FCDOT. The results of such Person Surveys and Vehicular Traffic Counts shall be provided to FCDOT as part of the Annual Reporting process. Person Surveys and Vehicular Traffic Counts shall be conducted for the Property beginning one year following issuance of the final initial RUP for the new residential building to be constructed on the Property. Person Surveys shall be conducted every three (3) years and Vehicular Traffic Counts shall be collected biennially until the results of three consecutive annual traffic counts conducted upon Build Out show that the applicable trip reduction goals for the Property have been met. Any time during which Person Survey response rates do not reach 20%, FCDOT may request additional surveys be conducted the following year. At such time and notwithstanding Paragraph E below, Person Surveys and Vehicular Traffic Counts shall thereafter be provided every five (5) years. Notwithstanding the aforementioned, at any time prior to or after Stabilization, FCDOT may suspend such Vehicle Traffic Counts if conditions warrant such.

- E. Additional Trip Counts. If an Annual Report indicates that a change has occurred that is significant enough to reasonably call into question whether the applicable

vehicle trip reduction goals are continuing to be met, then FCDOT may require the TPM to conduct additional Vehicular Traffic Counts (pursuant to the methodology set forth in the TDM Work Plan) within 90 days to determine whether in fact such objectives are being met. If any such Vehicular Traffic Counts demonstrate that the applicable vehicle trip reduction goals are not being met, then the TPM shall meet with FCDOT to review the TDM strategies in place and to develop modifications to the TDM Work Plan to address the surplus of trips.

- F. Continuing Implementation. The TPM shall bear sole responsibility for continuing implementation of the TDM Program and compliance with this Proffer. The TPM shall continue to administer the TDM Program in the ordinary course in accordance with this Proffer including submission of Annual Reports.
- G. Notice to Owners. All owners of the Property shall be advised of the TDM Program set forth in this Proffer. The then current owner shall advise all successor owners and/or developers of their funding obligations pursuant to the requirements of this Proffer prior to purchase and the requirements of the TDM Program, including the annual contribution to the TDM Program (as provided herein), shall be included in all initial and subsequent purchase documents.
- H. Existing Office Uses. The provisions of Proffer 30 do not include a vehicle trip reduction goal for the Office Uses, however, certain components of the TDM Work Plan are applicable to and would benefit the existing Office Uses on the Property. Therefore, the TDM Work Plan shall include programmatic elements to be applied with the objective of reducing the peak hour vehicular trips for the Office Uses, provided that the Office Uses are not subject to vehicle trip monitoring and that FCDOT shall not subject the Office Uses to any remedies or assess any penalties. In addition, the TDM Program shall include the following, provided that modifications, revisions, and supplements to the implementation process as set forth herein as coordinated with FCDOT can be made without requiring a PCA.
 - (i) Office TDM Account. The TPM shall establish a separate interest bearing account with a bank or other financial institution qualified to do business in Virginia (the "Office TDM Account") within 30 days after approval of the TDM Work Plan and TDM Budget. All interest earned on the principal shall remain in the Office TDM Account and shall be used by the TPM for TDM purposes.
 - (ii) Office TDM Incentive Fund. The "Office TDM Incentive Fund" is an account into which the office building owner, through the TPM, shall deposit contributions to fund a multimodal incentive program for the tenants and employees within the office building on the Property. The Applicant shall make a one time contribution of \$1,096 prior to the issuance of the first RUP for the Residential Units. In addition to providing transit incentives, such contribution may also be used for

enhancing/providing multimodal facilities within and proximate to the Property.

- I. Supplement to the Annual Report. The TPM shall submit, with its Annual Report, as described in Proffer 30(D)(ii) above, a parking summary that includes parking counts and/or observations that monitor whether the tenants, employees, residents, guests, visitors, and patrons on the Property are using off-site parking as described in Proffer 40 below. This parking summary may include parking counts of the off-site area adjacent to the Property and observations of walking destinations for those persons parking in such spaces.

RECREATIONAL FACILITIES

31. Amenities and Facilities for Residents. The Applicant shall provide as part of the Proposed Development facilities designed to meet the on-site recreational needs of the future residents of such units. Pursuant to Paragraph 2 of Section 16-409 of the Zoning Ordinance regarding developed recreational facilities, the Applicant shall expend a minimum of \$1,700.00 per non-Affordable Dwelling Unit on such recreational facilities. Prior to final bond release for any site plan for the Proposed Development, the balance of any funds not expended on-site shall be contributed to the Fairfax County Park Authority for the provision of recreational facilities located in proximity to the Property.

32. Parks Contribution. Prior to the issuance of the first RUP for the Proposed Development, the Applicant shall contribute \$1,562.75 per Residential Unit to the Fairfax County Park Authority for public parks in the vicinity of the Property.

33. Additional Recreational Facilities. Prior to the issuance of the first RUP for the Proposed Development, the Applicant shall provide local-serving recreational facilities within the open space area in the northwest corner of the Property identified on Sheet 13 and 13A of the CDP/FDP to provide recreational opportunities for residents, workers, and visitors of the Property. Such facilities may include, but shall not be limited to, active and passive recreation amenities for children and adults such as picnic tables and benches, playground equipment, outdoor yoga equipment, workout stations, and/or weight training equipment. The Applicant shall locate the recreational facilities to avoid adverse impacts to the critical root zones of any trees scheduled for preservation, and shall submit such locations to UFMD for review and approval prior to any land disturbing activity associated with the installation of such recreational facilities. The Applicant may adjust the specific type and location of the recreational facilities, provided the recreational facilities are consistent with the general quality and character of the recreational facilities shown on Sheet 13A of the CDP/FDP.

PUBLIC SCHOOLS CONTRIBUTION

34. Public Schools Contribution. Per the Residential Development Criteria Implementation Motion adopted by the Board of Supervisors on January 7, 2003, prior to site plan approval for the residential building, the Applicant shall contribute \$1,179.90 per Residential Unit (based on an assumed rate of 0.11 students per unit multiplied by \$10,488 per student generated) constructed on the Property to the Board of Supervisors for transfer to the Fairfax County School

Board to be utilized for capital improvements and capacity enhancements to schools in the McLean area that serve the Property. Following approval of this Application and prior to the Applicant's payment of such contribution as set forth in this proffer, if Fairfax County should increase the ratio of students per unit or the amount of the contribution per student, the Applicant shall increase the amount of the contribution to reflect the then-current ratio and/or contribution. If the County should decrease the ratio or contribution amount, the Applicant shall provide the greater of the two contribution amounts.

AFFORDABLE HOUSING

35. Affordable Dwelling Units. Unless otherwise exempt pursuant to Section 803 of Part 8 of Article 2 of the Zoning Ordinance in effect as of the approval date of this Application (the "ADU Ordinance"), the Applicant shall provide Affordable Dwelling Units ("ADUs") pursuant to the ADU Ordinance.

36. Workforce Dwelling Units. In addition to the number of ADUs required pursuant to Proffer 35, the Applicant also shall provide for-sale and/or rental housing units with the Proposed Development to be sold/rented as Workforce Dwelling Units ("WDUs") administered as set forth in the "Board of Supervisors' Workforce Dwelling Unit Administrative Policy Guidelines" adopted October 15, 2007, so that a total of twelve percent (12%) of the total Residential Units constructed as part of the Proposed Development are sold/rented as either ADUs or WDUs. Such WDUs shall be in addition to any requirement to provide ADUs in accordance with the ADU Ordinance in effect as of the approval date of this Application, provided the total number of ADUs and WDUs does not exceed twelve percent (12%) of the total number of Residential Units constructed as part of the Proposed Development. When the required number of WDUs results in a fractional unit less than 0.5, the number shall be rounded down to the next whole number. When the required number of WDUs results in a fractional unit greater than or equal to 0.5, the number shall be rounded up to the next whole number. Notwithstanding the foregoing, the Applicant reserves the right to enter into a separate binding written agreement with the appropriate Fairfax County agency as to the terms and conditions of the administration of the WDUs following approval of this Application. Such an agreement shall be on terms mutually acceptable to both the Applicant and Fairfax County and may occur after the approval of this Application. Neither the Board of Supervisors nor Fairfax County shall be obligated to execute such an agreement. If such an agreement is executed by all applicable parties, then the WDUs shall be administered solely in accordance with such agreement and the provisions of this proffer shall become null and void. Such an agreement and any modifications thereto shall be recorded in the land records of Fairfax County.

ARCHITECTURE

37. Architectural Design and Building Materials. The character of the architectural design and building materials for the residential building shall be in general conformance with the elevations shown on Sheets 6, 7, and 8 of the CDP/FDP. The Applicant reserves the right to adjust the average grade elevation and the architectural design details of the residential building, including, but not limited to, the building materials, articulation, and fenestration, as part of final architectural design and engineering without requiring approval of a PCA, CDPA, or FDPA, provided (a) the maximum building height is not increased, (b) the minimum open space is not

decreased, and (c) the quality of the architectural design, the quality of the building materials, and the overall massing of the residential building remain in general conformance with that shown on the CDP/FDP, as determined by the Zoning Administrator.

GREEN BUILDING

38. Green Building for the Residential Units. The Applicant shall select one of the following programs to be implemented and will inform the Environment and Development Review Branch (“EDRB”) of DPZ which program the Applicant has chosen as part of the first site plan submission for the Proposed Development.

- A. National Green Building Standard (“NGBS”). If the Applicant selects the NGBS, then the Applicant shall seek certification of each unit in the residential building in accordance with the 2012 NGBS rating system using the Energy Star Qualified Homes path for energy performance, as demonstrated through documentation submitted to DPWES and DPZ from a home energy rater certified through the Home Innovation Research Labs Center that demonstrates each unit in the residential building has attained certification prior to the issuance of the RUP for each such unit.
- B. LEED New Construction or LEED for Homes Multi-Family Mid-Rise. If the Applicant selects the Leadership in Energy and Environmental Design – New Construction (“LEED-NC”) rating system, then the Applicant shall pursue certification for the residential building under the 2009 version of the LEED –NC rating system. In the event the U.S. Green Building Council (“USGBC”) establishes a newer version of the LEED-NC rating system, the Applicant shall have the option to: 1) proceed under the 2009 version of the LEED-NC rating system, so long as the USGBC continues to administer such system, or 2) proceed under the newer version of the LEED-NC rating system. If the Applicant selects the Leadership in Energy and Environmental Design for Homes Multi-Family Mid-Rise (“LEED for Homes”) rating system, then the Applicant shall pursue certification for the residential building under the 2009 version of the LEED for Homes rating system. In the event the USGBC establishes a newer version of the LEED for Homes rating system, the Applicant shall have the option to: 1) proceed under the 2009 version of the LEED for Homes rating system, so long as the USGBC continues to administer such system, or 2) proceed under the newer version of the LEED for Homes rating system.
- i. Project Checklist. The Applicant will include, as part of the site plan submission and building plan submission for the residential building, a list of specific credits within the applicable LEED-NC or LEED for Homes rating system that the Applicant anticipates attaining for the residential building. A LEED-accredited professional (“LEED-AP”) who is also a professional engineer or licensed architect will provide certification statements at both the time of site plan review and the time of building plan review for the residential building confirming that the items on the

list will meet at least the minimum number of credits necessary to attain LEED certification for the residential building.

- ii. County Team Member. In addition, the Applicant will designate the Chief of EDRB as a team member in the USGBC's LEED Online system. This team member will have privileges to review the project status and monitor the progress of all documents submitted by the project team, but will not be assigned responsibility for any LEED credits and will not be provided with the authority to modify any documentation or paperwork.
- iii. Design-Related Credit Review. Prior to building plan approval for the residential building, the Applicant will submit documentation to the EDRB regarding the USGBC's preliminary review of design-oriented credits in the LEED program if available depending upon the rating system selected. This documentation will demonstrate that the residential building is anticipated to attain a sufficient number of design-related credits that, along with the anticipated construction-related credits, will be sufficient to attain LEED Silver certification. Prior to release of the bond for the residential building, the Applicant shall provide documentation to the EDRB demonstrating the status of attainment of LEED certification from the USGBC for the residential building.
- iv. Green Building Escrow. If the Applicant is unable, prior to building plan approval, to provide documentation of the USGBC's preliminary review of the design-oriented credits demonstrating that the residential building is anticipated to attain a sufficient number of design-related credits that, along with the anticipated construction-related credits, will be sufficient to support the attainment of LEED Silver certification, or if the rating system does not offer this option, the Applicant shall, prior to building plan approval, post a "Green Building Escrow" in the form of cash or a letter of credit from a financial institution authorized to do business in the Commonwealth of Virginia in the amount of \$2 per gross square foot of the residential building. The Green Building Escrow will be in addition to, and separate from, other bond requirements and will be released upon demonstration of attainment of LEED certification by the USGBC, under the applicable version of the LEED-NC or LEED for Homes rating system. The provision to the EDRB of documentation from the USGBC that the residential building has attained LEED certification will be sufficient to satisfy this commitment.
- v. Release of Green Building Escrow. The Green Building Escrow shall be released in accordance with the following:
 - a. If the Applicant is able, subsequent to building plan approval, to provide documentation of the USGBC's preliminary review of the design-oriented credits demonstrating that the residential building

is anticipated to attain a sufficient number of design-oriented credits that, along with the anticipated construction-related credits, will be sufficient to support the attainment of LEED Silver certification, the County shall release the entirety of the Green Building Escrow to the Applicant. Prior to release of the bond for the residential building, the Applicant shall provide documentation to the EDRB demonstrating the status of attainment of LEED certification from the USGBC for the residential building.

- b. If the Applicant provides to the EDRB, within three years after issuance of the final RUP for the residential building, documentation demonstrating that LEED certification for the residential building has been attained, the entirety of the Green Building Escrow shall be released to the Applicant.
 - c. If the Applicant provides to the EDRB, within three years after issuance of the final RUP for the residential building, documentation demonstrating that LEED certification for the residential building has not been attained but that the building has been determined by the USGBC to fall within three points of the attainment of LEED certification, fifty percent (50%) of the Green Building Escrow will be released to the Applicant; the other fifty percent (50%) will be released to Fairfax County and will be posted to a fund within the County budget supporting the implementation of County environmental initiatives.
 - d. If the Applicant fails to provide to the EDRB, within three years after issuance of the final RUP for the residential building, documentation demonstrating the attainment of LEED certification or demonstrating that the residential building has fallen short of LEED certification by three points or less, the entirety of the Green Building Escrow will be released to Fairfax County and will be posted to a fund within the County budget supporting the implementation of County environmental initiatives.
- vi. Extension of Time. If the Applicant provides documentation from the USGBC demonstrating, to the satisfaction of the EDRB, that USGBC's completion of the review of the LEED certification application has been delayed through no fault of the Applicant, the Applicant's contractors or subcontractors, the time frame may be extended as determined appropriate by the Zoning Administrator, and no release of escrowed funds shall be made to the Applicant or to the County during the extension.
- C. EarthCraft. If the Applicant selects EarthCraft, then the Applicant shall provide documentation to DPWES and DPZ that the residential building has been

awarded certification in accordance with the EarthCraft House Program prior to the issuance of the first RUP for the residential building.

UNIVERSAL DESIGN

39. Universal Design Features. The Applicant shall provide a minimum of two percent (2%) of the total number of Residential Units constructed on the Property with universal design features that shall include, but not be limited to, the following:

- Front entrance doors that are a minimum of thirty-six (36) inches wide;
- Lever door handles instead of knobs;
- Light switches that are forty-four (44) to forty-eight (48) inches high;
- Thermostats a maximum of forty-eight (48) inches high;
- Electrical outlets a minimum of eighteen (18) inches high;
- A curb-less shower, or a shower with a curb of less than four and one-half (4.5) inches high; and/or,
- Grab bars in the bathrooms that are ADA compliant.

PARKING MANAGEMENT

40. Parking Management. The Applicant shall develop and implement a parking management plan ("Parking Plan") which shall include measures to reduce the likelihood of tenants, employees, residents, guests, visitors, contractors, vendors, suppliers, owners, and patrons of the Property unlawfully using off-site parking (other than publicly available on-street parking) in and around surrounding properties at no cost to the owners of such properties. More specifically, the Parking Plan shall evaluate the potential for off-site parking on the McLean House Property and the McLean Office Square Property. To that end, the Applicant (or its designee) shall conduct parking counts and/or observations for the Proposed Development, the McLean House Property, and the McLean Office Square Property, subject to the Applicant receiving any necessary permission from the Council of Co-Owners, McLean House, North, Phase I Condominium ("McLean House Condominium Owners Council") and the McLean Office Square Condominium Association ("MOSCA"), as applicable, to conduct such parking counts and/or observations on the McLean House Property and the McLean Office Square Property, and the Applicant shall consult with the McLean House Condominium Owners Council, MOSCA, FCDOT, and the Dranesville District Supervisor to review the parking counts and/or observations and to identify and implement potential parking mitigation measures as may be necessary for the McLean House Property and the McLean Office Square Property as follows:

- A. Parking Escrow. Prior to the issuance of the first RUP for the Residential Units constructed on the Property, the Applicant shall post an escrow in the amount of \$110,000 in the form of cash or a letter of credit with a financial institution authorized to do business in the Commonwealth of Virginia to be drawn upon and/or released in accordance with the provisions of this Proffer 40.
- B. Initial Parking Counts. Within one (1) year of the issuance of the final initial RUP for the Residential Units constructed on the Property, the Applicant shall

conduct a one-day parking count and/or observation (each a "Parking Count") of the McLean House Property and the McLean Office Square Property, in accordance with a methodology approved by FCDOT, to determine the number of empty surface parking spaces on the McLean House Property, the number of empty surface parking spaces on the McLean Office Square Property, and the number of vehicles of tenants, employees, residents, guests, visitors, contractors, vendors, suppliers, owners, and/or patrons of the Property ("Property Vehicles") parked unlawfully on the McLean House Property and/or the McLean Office Square Property between the hours of 10:00 AM and 8:00 PM on a non-holiday weekday while Fairfax County public schools are in session (the "Monitored Hours"). The purpose of these initial Parking Counts shall be to establish a baseline of information for the Applicant, the McLean House Condominium Owners Council, MOSCA, and FCDOT regarding the parking characteristics of the McLean House Property and the McLean Office Square Property to assist in the development of potential parking mitigation measures.

- C. Notice of Parking Enforcement. Within one (1) year of the issuance of the final initial RUP for the Residential Units constructed on the Property, the Applicant shall notify the residents of the Residential Units, the tenants of the Residential Building Secondary Uses, the tenants of the Office Uses, and the tenants of the Office Building Secondary Uses that it is unlawful for any tenants, employees, residents, guests, visitors, contractors, vendors, suppliers, owners, and/or patrons of the Property to park on the McLean House Property and the McLean Office Square Property without permission, and that any vehicles unlawfully parked on the McLean House Property or the McLean Office Square Property shall be subject to towing at the vehicle owner's expense. Further, if representatives of the McLean House Condominium Owners Council and/or MOSCA inform the Applicant that any specific instances of such unlawful parking is occurring, the Applicant shall endeavor to inform individual violators to attempt to dissuade them from engaging in such unlawful parking.
- D. Assistance with Parking Enforcement. Within one (1) year of the issuance of the final initial RUP for the Residential Units constructed on the Property, the Applicant shall commence assisting the McLean House Condominium Owners Council and MOSCA in coordinating parking enforcement efforts with the Fairfax County Police Department and the towing of Property Vehicles unlawfully parked on the McLean House Property or the McLean Office Square Property with a properly licensed and insured commercial towing service.
- E. Additional Parking Counts and Consultation. Between seventeen (17) and eighteen (18) months after the issuance of the final initial RUP for the Residential Units constructed on the Property, the Applicant shall conduct a Parking Count of the McLean House Property and the McLean Office Square Property, in accordance with a methodology approved by FCDOT, to determine the number of empty surface parking spaces on the McLean House Property, the number of empty surface parking spaces on the McLean Office Square Property, and the number of Property Vehicles parked unlawfully on the McLean House Property

and/or the McLean Office Square Property during the Monitored Hours. In the event such Parking Count determines that twenty (20) or more Property Vehicles are parked unlawfully on the McLean House Property or the McLean Office Square Property during the Monitored Hours, the Applicant shall consult with the McLean House Condominium Owners Council and/or MOSCA, as applicable, FCDOT, and the Dranesville District Supervisor to review the parking mitigation measures currently in place and develop additional or alternative parking mitigation measures to reduce the likelihood of Property Vehicles parking unlawfully on the McLean House Property and/or the McLean Office Square Property, as applicable. In the event such Parking Counts determine that fewer than twenty (20) Property Vehicles are parked unlawfully on the McLean House Property or the McLean Office Square Property, the Applicant shall continue the implementation of the parking mitigation measures in place for the Property.

- F. Additional Parking Counts and Mitigation Measures. Between twenty-nine (29) and thirty (30) months after the issuance of the final initial RUP for the Residential Units constructed on the Property, the Applicant shall conduct a Parking Count of the McLean House Property and the McLean Office Square Property, in accordance with a methodology approved by FCDOT, to determine the number of empty surface parking spaces on the McLean House Property, the number of empty surface parking spaces on the McLean Office Square Property, and the number of Property Vehicles parked unlawfully on the McLean House Property and/or the McLean Office Square Property during the Monitored Hours.
- i. In the event such Parking Count determines that twenty (20) or more Property Vehicles are parked unlawfully on the McLean House Property during the Monitored Hours, the Applicant shall draw down on the escrow and contribute \$100,000 to the McLean House Condominium Owners Council to be used for any of the following parking mitigation measures: (a) improvements to the permit parking program for residents and visitors of the McLean House Property, (b) traffic control or traffic calming measures such as speed bumps, speed humps, and/or any modifications to the design of the parking areas on the McLean House Property, (c) the installation of controlled access security gates, security cameras, or other security equipment/technology, or (d) any alternative parking mitigation measure agreed upon by the parties. Upon the contribution of \$100,000 to the McLean House Condominium Owners Council, the Applicant shall be relieved of all obligations of this Proffer 40 with respect to the McLean House Property. In the event such Parking Count determines that fewer than twenty (20) Property Vehicles are parked unlawfully on the McLean House Property, the Applicant shall continue the implementation of the parking mitigation measures in place for the Property with respect to the McLean House Property.
- ii. In the event such Parking Count determines that twenty (20) or more Property Vehicles are parked unlawfully on the McLean Office Square Property during the Monitored Hours, the Applicant shall draw down on

the escrow and contribute \$10,000 to MOSCA to be used for any of the following parking mitigation measures: (a) improvements to the permit parking program for owners, tenants, and employees of the McLean Office Square Property, (b) traffic control or traffic calming measures such as speed bumps, speed humps, and/or any modifications to the design of the parking areas on the McLean Office Square Property, or (c) any alternative parking mitigation measure agreed upon by the parties. Upon the contribution of \$10,000 to MOSCA, the Applicant shall be relieved of all obligations of this Proffer 40 with respect to the McLean Office Square Property. In the event such Parking Count determines that fewer than twenty (20) Property Vehicles are parked unlawfully on the McLean Office Square Property, the Applicant shall continue the implementation of the parking mitigation measures in place for the Property with respect to the McLean Office Square Property.

G. Additional Parking Counts and Release of Obligations. Between forty-one (41) and forty-two (42) months after the issuance of the final initial RUP for the Residential Units constructed on the Property, the Applicant shall conduct a Parking Count of the McLean House Property and the McLean Office Square Property, in accordance with a methodology approved by FCDOT, to determine the number of empty surface parking spaces on the McLean House Property, the number of empty surface parking spaces on the McLean Office Square Property, and the number of Property Vehicles parked unlawfully on the McLean House Property and/or the McLean Office Square Property during the Monitored Hours, provided, however, that the Applicant shall not be required to conduct a Parking Count for the McLean House Property if the Applicant has already contributed \$100,000 from the escrow account to the McLean House Condominium Owners Council in accordance with Proffer 40(F)(i) above and the Applicant shall not be required to conduct a Parking Count for the McLean Office Square Property if the Applicant has already contributed \$10,000 from the escrow account to MOSCA in accordance with Proffer 40(F)(ii) above.

- i. In the event such Parking Count determines that twenty (20) or more Property Vehicles are parked unlawfully on the McLean House Property during the Monitored Hours, the Applicant, if it has not already done so under Proffer 40(F)(i) above, shall draw down on the escrow and contribute \$100,000 to the McLean House Condominium Owners Council to be used for any of the following parking mitigation measures: (a) improvements to the permit parking program for residents and visitors of the McLean House Property, (b) traffic control or traffic calming measures such as speed bumps, speed humps, and/or any modifications to the design of the parking areas on the McLean House Property, (c) the installation of controlled access security gates or other security equipment and technology, or (d) any alternative parking mitigation measure agreed upon by the parties. Upon the contribution of \$100,000 to the McLean House Condominium Owners Council, the Applicant shall be relieved of all obligations of this Proffer 40 with respect to the McLean House Property.

In the event such Parking Count determines that fewer than twenty (20) Property Vehicles are parked unlawfully on the McLean House Property, \$100,000 of the escrow shall be released to the Applicant and the Applicant shall be relieved of all obligations under this Proffer 40 with respect to the McLean House Property, except that the Applicant shall have the ongoing obligation to assist the McLean House Condominium Owners Council in coordinating parking enforcement efforts with the Fairfax County Police Department and the towing of Property Vehicles unlawfully parked on the McLean House Property with a properly licensed and insured commercial towing service.

- ii. In the event such Parking Count determines that twenty (20) or more Property Vehicles are parked unlawfully on the McLean Office Square Property during the Monitored Hours, the Applicant, if it has not already done so under Proffer 40(F)(ii) above, shall draw down on the escrow and contribute \$10,000 to MOSCA to be used for any of the following parking mitigation measures: (a) improvements to the permit parking program for owners, tenants, and employees of the McLean Office Square Property, (b) traffic control or traffic calming measures such as speed bumps, speed humps, and/or any modifications to the design of the parking areas on the McLean Office Square Property, or (c) any alternative parking mitigation measure agreed upon by the parties. Upon the contribution of \$10,000 to MOSCA, the Applicant shall be relieved of all obligations of this Proffer 40 with respect to the McLean Office Square Property. In the event such Parking Count determines that fewer than twenty (20) Property Vehicles are parked unlawfully on the McLean Office Square Property, \$10,000 of the escrow shall be released to the Applicant and the Applicant shall be relieved of all obligations under this Proffer 40 with respect to the McLean Office Square Property, except that the Applicant shall have the ongoing obligation to assist MOSCA in coordinating parking enforcement efforts with the Fairfax County Police Department and the towing of Property Vehicles unlawfully parked on the McLean Office Square Property with a properly licensed and insured commercial towing service.

H. Additional Parking Counts. After eighteen (18) months from issuance of the final initial RUP for the Residential Units constructed on the Property, the Fairfax County Zoning Administrator, in consultation with FCDOT, may require the Applicant to conduct additional Parking Counts at any time, provided the Applicant shall not be required to conduct more than two (2) Parking Counts within any twelve (12) month period.

I. Maximum Contribution. Notwithstanding any of the above provisions, the Applicant's maximum cumulative contribution to the McLean House Condominium Owners Council under this Proffer 40 shall not exceed \$100,000 and the Applicant's maximum cumulative contribution to MOSCA under this Proffer 40 shall not exceed \$10,000.

- J. Requirement for Permit Parking Program. The Applicant's obligations under this Proffer 40 with respect to the McLean House Property are subject to the McLean House Condominium Owners Council establishing and/or maintaining a parking permit program for the McLean House Property that includes hang tags/stickers and towing enforcement. The Applicant's obligations under this Proffer 40 with respect to the McLean Office Square Property are subject to MOSCA establishing and/or maintaining a parking permit program for the McLean Office Square Property that includes hang tags/stickers and towing enforcement.

MISCELLANEOUS PROFFERS

41. Construction Management. The Applicant shall coordinate with the property owners and/or property owners associations in the immediate vicinity of the Property to minimize the potential impact to adjacent uses of the construction activities necessary for the Proposed Development as follows:

- A. Pre-Construction Meeting. Prior to the commencement of construction, the Applicant shall hold a meeting with the property owners and/or property owners associations in the immediate vicinity of the Property to provide information regarding planned construction activities for the Proposed Development. The information shall include: (a) the anticipated phasing of construction, (b) a preliminary schedule for each phase of construction, (c) a preliminary plan for the routing of construction trucks, and (d) planned measures to minimize off-site dirt and debris in accordance with applicable law. In addition, the Applicant shall provide the name, email address, and telephone number of a contact person responsible for managing construction activities on the Property to the Dranesville District Supervisor prior to the commencement of construction.
- B. Construction Hours. Outdoor construction activities, including deliveries, on the Property shall occur only between the hours of 7:00 am to 9:00 pm Monday through Saturday and 9:00 am to 7:00 pm on Sundays. The Applicant shall inform all contractors and subcontractors of the permitted hours of construction and signs identifying such construction hours shall be posted at all construction entrances on the Property.
- C. Construction Trucks. The Applicant shall prepare a plan for the routing of construction trucks, in accordance with applicable law, and shall provide such plan to the property owners and/or property owners associations in the immediate vicinity of the Property prior to the commencement of construction. The Applicant shall inform all contractors and subcontractors of the plan for the routing of construction trucks and signs identifying such construction truck routes shall be posted at all construction entrances on the Property.
- D. Interim Office Parking. Prior to site plan approval for the Proposed Development, the Applicant shall prepare and submit to FCDOT a plan for parking the existing Office Uses during the period of construction for the Proposed Development (the "Parking Plan"). The Parking Plan shall identify measures demonstrating that the

Applicant will provide parking for the Office Uses in accordance with applicable Zoning Ordinance requirements. Such parking measures may include, but shall not be limited to: (i) a valet service to transfer vehicles to and from the Property and one or more temporary off-site parking locations, (ii) a valet service to stack and park vehicles on the Property, (iii) one or more temporary off-site parking locations with shuttle bus service to and from the Property, (iv) a temporary parking reduction for the Office Uses subject to approval by Fairfax County, and/or (v) one or more vehicle lift structures for the stacking and parking of vehicles on the Property.

42. Screening of Rooftop Mechanical Equipment. The Applicant shall screen and/or set back sufficiently from the perimeter of the roof any rooftop mechanical/HVAC equipment on the residential building so that such equipment generally is not visible from the surrounding streets at street level when viewed at a reasonable distance from the property line of the Property and also generally is not visible from the residential units within the McLean House Property when viewed at approximately the same elevation as the roof of the residential building. Screening measures may include, but shall not be limited to: (i) screening with architectural features and/or landscaping compatible with the residential building architecture, (ii) screening with Residential Units within the residential building, (iii) utilizing compatible colors and materials for the mechanical/HVAC equipment, (iii) integrating the rooftop mechanical/HVAC equipment as part of the architecture of the residential building, and/or (iv) screening with rooftop amenity spaces/terraces. The Applicant shall have no obligation to screen mechanical/HVAC equipment from the view of residential units within the McLean House Property located at a higher elevation than the rooftop of the residential building on the Property.

43. Public Art. The Applicant shall contribute to public art in the McLean community as part of the Proposed Development by providing public art within the Property in consultation with the McLean Project for the Arts (“MPA”) and by providing contributions to support MPA programs. The Applicant shall consult with the MPA to obtain its recommendations regarding the type of public art to be provided and the location of the public art within the Property. Such consultation may involve the MPA conducting a process for community review and input of the potential public art for the Property. Following such consultation, the Applicant shall make the final determination regarding any public art to be provided within the Property. The Applicant shall provide the public art prior to the issuance of the final initial RUP for the Residential Units constructed on the Property. Further, prior to the issuance of the first RUP for the Proposed Development, the Applicant shall contribute \$50,000 to the MPA to be utilized to support the MPA’s Art Reach program. Thereafter, the Applicant shall contribute an additional \$50,000 within one (1) year of the issuance of the first RUP for the Proposed Development and an additional \$50,000 within two (2) years of the issuance of the first RUP for the Proposed Development to be utilized to support the MPA’s Art Reach program. Notwithstanding the timing of such contributions under the above provisions, the Applicant’s maximum cumulative contribution to the MPA under this Proffer 43 shall not exceed \$150,000.

44. Water Feature. The Applicant shall provide a water feature within the open space area along the Elm Street frontage of the Property in the general location identified on Sheets 11, 12, and 12A of the CDP/FDP to provide a passive recreation amenity for the open space area. The Applicant shall consult with the MPA to obtain its recommendations regarding the type of water

feature to be provided and the location of the water feature within the Property. Such consultation may involve the MPA conducting a process for community review and input of the potential water feature designs for the Property. Following such consultation, the Applicant shall make the final determination regarding the water feature to be provided within the Property. The Applicant may adjust the specific type and location of the water feature, provided the water feature is consistent with the general quality and character of the representative water feature examples shown on Sheet 12A of the CDP/FDP. The Applicant shall provide the water feature prior to the issuance of the final initial RUP for the Residential Units constructed on the Property.

45. Contribution for Franklin Sherman Elementary School Recreational Facilities. Prior to the issuance of the 100th RUP for the Proposed Development, the Applicant shall contribute \$100,000 to the Fairfax County Board of Supervisors for transfer to the Fairfax County School Board to be utilized for improvements to the athletic fields and basketball court on the Franklin Sherman Elementary School property.

46. Contribution for Off-Site Sidewalk/Streetscape Improvements. Prior to the issuance of the 100th RUP for the Proposed Development, the Applicant shall contribute \$179,100 to the Dranesville District Pedestrian Improvement Fund to be utilized for off-site sidewalk and streetscape improvements on Elm Street, Fleetwood Road, Beverly Road, and/or other streets in the vicinity of the Property.

47. Contribution for Underground Utilities. Prior to the issuance of the 100th RUP for the Proposed Development, the Applicant shall contribute \$250,000 to the McLean Revitalization Corporation to be utilized for the undergrounding of utility lines in the vicinity of the Property.

48. Electric Vehicle Charging Infrastructure. The Applicant shall provide a minimum of one recharging station that serves two (2) parking spaces for electric cars within the parking garage on the Property. The Applicant shall also provide space and infrastructure to accommodate additional electric vehicle-ready parking spaces in the parking garage on the Property. "Electric vehicle-ready" means the provision of space, conduit banks, conduits and access points allowing for the easy installation of vehicle charging stations in the future, and does not include the installation of transformers, switches, wiring or charging stations.

49. Successors and Assigns. These proffers will bind and inure to the benefit of the Applicant and its successors and assigns. Each reference to "Applicant" in this proffer statement shall include within its meaning and shall be binding upon Applicant's successor(s) in interest and/or developer(s) of the site or any portion of the site.

50. Counterparts. These proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original, and all of which taken together shall constitute but one and the same instrument.

51. Annual Escalation Clause. For all proffers in this document specifying monetary contributions, the contribution and/or budget amount shall escalate or de-escalate, as applicable, on a yearly basis from the base year of 2014 and change effective each January 1 thereafter, as permitted by Section 15.2-2303.3 of the Code of Virginia, as amended.

52. Advanced Density Credit. The Applicant reserves density credit as may be permitted by the provisions of Paragraph 4 of Section 2-308 of the Zoning Ordinance for all eligible dedications described herein or as may be required by Fairfax County or VDOT.

[Signature pages follow]

JBG/ELM STREET OFFICE, L.L.C.

By: JBG/Company Manager III, L.L.C.,
its Managing Member

By: 

Name: Brian Coulter
Managing Member

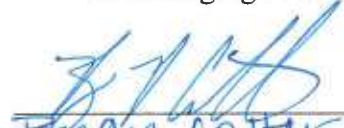
ELM STREET RESIDENTIAL, L.L.C.
a Delaware limited liability company

By: JBG/Company Manager III, L.L.C.,
its Managing Member

By:

Name:

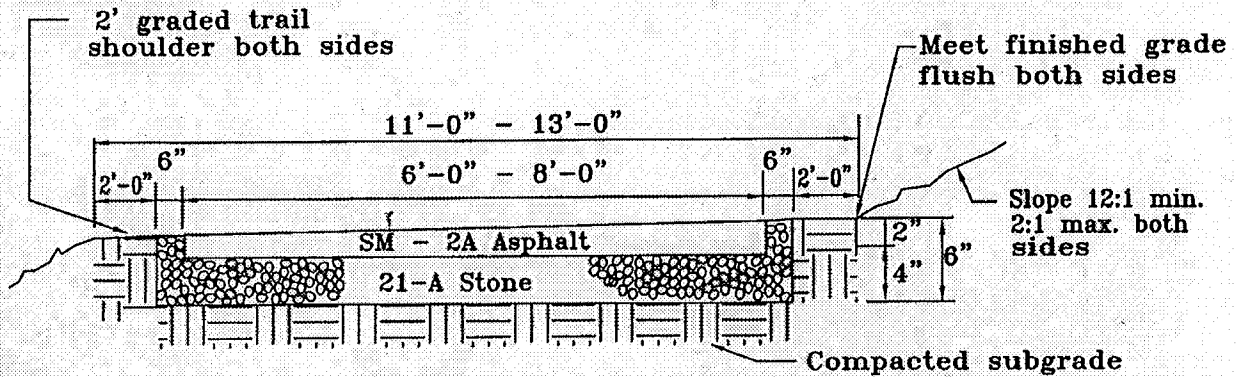
Title:



Brian Carter

Managing Member

FAIRFAX COUNTY PUBLIC FACILITIES MANUAL



TYPE I

Suitable for bicycle and general pedestrian use. 8' is the required minimum width for bikeways and 6' the required minimum for walkways. Wider sections may be required in heavily traveled areas.

Where soil is well drained and compactable, the stone base may be eliminated and this section replaced by a 3 1/2" full-depth asphalt section. Construction of this substitute section is subject to the approval of the Director.

Ref. Sec. 8-0202.1B,
8-0203.1B

Rev. 1-00, 2011 Reprint

TRAIL CROSS-SECTIONS

PLATE NO.

STD. NO.

4-8

APPENDIX 3 (continued) – STREETSCAPE DESIGN STANDARDS

